

## § 171.40

individuals by virtue of their having access to such material.

Foreign Service Institute Records. STATE-14.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Security Records. STATE-36.

(7) *Exempt under 5 U.S.C. 552a(k)(7).* The reason for invoking this exemption is to prevent access to material maintained from time to time by the Department in connection with various military personnel exchange programs.

Overseas Records. STATE-25.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

## Subpart E—Ethics in Government Act Provisions

### § 171.40 Purpose and scope.

This subpart sets forth the regulations under which persons may request access to the public financial disclosure reports of employees of the Department as well as limits to such requests and use of such information. The Ethics in Government Act 1978, as amended, and the Office of Government Ethics implementing regulations, 5 CFR part 2634, require that high-level Federal officials disclose publicly their personal financial interests.

### § 171.41 Covered employees.

(a) Officers and employees (including special Government employees as defined in 18 U.S.C. 202) whose positions are classified at grades GS-16 and above of the General Schedule, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than the 120% of the minimum rate of basic pay for GS-15 of the General Schedule;

(b) Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;

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(c) Employees in the excepted service in positions that are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics;

(d) The designated agency official who acts as the Department's Ethics Officer;

(e) Incumbent officials holding positions referred to above if they have served 61 days or more in the position during the preceding calendar year.

(f) Officials who have terminated employment from a position referred to above and who have not accepted another such position within 30 days of such termination.

### § 171.42 Requests and identifying information.

Requests for access to public financial disclosure reports of covered employees should be made in writing to the Information and Privacy Coordinator at the address given in § 171.5 setting forth:

(a) The name and/or position title of the Department of State official who is the subject of the request,

(b) The time period covered by the report requested,

(c) A completed Office of Government Ethics request form, OGE Form 201, October, 1999. This form may be obtained by writing to the Information and Privacy Coordinator or by visiting the Public Reading Room described in § 171.3 or <http://www.usoge.gov>.

### § 171.43 Time limits and fees.

(a) Reports shall be made available within thirty (30) days from receipt of a request by the Department. The Department does not charge a fee for a single copy of a public financial report. However, the Department will charge for additional copies of a report at a rate of 15 cents per page plus the actual direct cost of mailing the reports. However, the Department will not charge for individual requests if the total charge would be \$10.00 or less.

(b) A report shall be retained by the Department and made available to the public for a period of six (6) years after receipt of such report. After such a six year period, the report shall be destroyed, unless needed in an ongoing

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investigation, except that those reports filed by individuals who are nominated for office by the President to a position that requires the advice and consent of the Senate, and who subsequently are not confirmed by the Senate, will be retained and made available for a one-year period, and then destroyed, unless needed in an ongoing investigation.

### § 171.44 Improper use of reports.

(a) The Attorney General may bring a civil action against any person who obtains or uses a financial disclosure report:

- (1) For any unlawful purpose;
- (2) For any commercial purpose, other than for news or community dissemination to the general public;
- (3) For determining or establishing the credit rating of any individual;
- (4) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(b) The court in which such action is brought may assess a civil penalty not to exceed \$10,000 against any person who obtains or uses the reports for these prohibited purposes. Such remedy shall be in addition to any other remedy available under statutory or common law.

## Subpart F—Appeal Procedures

### § 171.50 Appeal of denials of expedited processing.

(a) A denial of a request for expedited processing may be appealed to the Chief of the Requester Liaison Division of the office of the Information and Privacy Coordinator at the address given in § 171.5 within 30 days of receipt of the denial. Appeals should contain as much information and documentation as possible to support the request for expedited processing in accordance with the criteria set forth in § 171.12(b).

(b) The Requester Liaison Division Chief will issue a final decision in writing within ten (10) days from the date on which the office of the Information and Privacy Coordinator receives the appeal.

### § 171.51 Appeals of denials of fee waivers or reductions.

(a) A denial of a request for a waiver or reductions of fees may be appealed to the Chief of the Requester of Liaison Division of the Office of the Information and Privacy Coordinator at the address given in § 171.5 within 30 days of receipt of the denial. Appeals should contain as much information and documentation as possible to support the request for fee waiver or reduction in accordance with the criteria set forth in § 171.17.

(b) The Requester Liaison Division Chief will issue a final decision in writing within 30 days from the date on which the office of the Information and Privacy Coordinator receives the appeal.

### § 171.52 Appeal of denial of access to, declassification of, amendment of, accounting of disclosures of, or challenge to classification of records.

(a) *Right of administrative appeal.* Except for records that have been reviewed and withheld within the past two years or are the subject of litigation, any requester whose request for access to records, declassification of records, amendment of records, accounting of disclosures of records, or any authorized holder of classified information whose classification challenge has been denied, has a right to appeal the denial to the Department's Appeals Review Panel. This appeal right includes the right to appeal the determination by the Department that no records responsive to an access request exist in Department files. Privacy Act appeals may be made only by the individual to whom the records pertain.

(b) *Form of appeal.* There is no required form for an appeal. However, it is essential that the appeal contain a clear statement of the decision or determination by the Department being appealed. When possible, the appeal should include argumentation and documentation to support the appeal and to contest the bases for denial cited by the Department. The appeal should be sent to: Chairman, Appeals Review